

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT DANVILLE, VA
FILED for RHE

DEC 13 2010

KEITH RENARD HARRIS,
Petitioner,

Civil Action No. 7:10-cv-00391

JULIA C. DUDLEY, CLERK
BY: HMcDermott
DEPUTY CLERK

v.

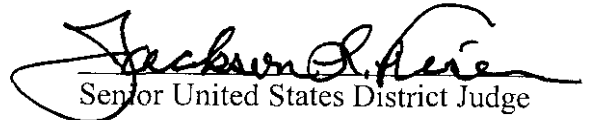
MEMORANDUM OPINION

GENE JOHNSON,
Respondent.

By: Hon. Jackson L. Kiser
Senior United States District Judge

Petitioner Keith Renard Harris, a Virginia inmate proceeding pro se, filed a petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254, to challenge his March 2002 convictions for contracting without a license and obtaining money by fraud. However, court records indicate that petitioner previously filed a § 2254 petition concerning the same convictions in Harris v. Director, Virginia DOC, No. 1:05-cv-00095 (E.D. Va. Mar. 10, 2006).¹ Thus, the petitioner's current petition is a subsequent one, falling under the prohibition in 28 U.S.C. § 2244(b) against a second or successive petition. Pursuant to this section, a federal district court may consider a second or successive § 2254 petition only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the petition meet certain criteria. 28 U.S.C. § 2244(b). Because the petitioner has not submitted any evidence that he has obtained such certification by the Court of Appeals, I dismiss the petition without prejudice as successive. Based upon the finding that the petitioner has not made the requisite substantial showing of a denial of a constitutional right as required by 28 U.S.C. § 2253(c)(1), a certificate of appealability is denied. The Clerk is directed to send copies of this memorandum opinion and the accompanying order to the petitioner and counsel of record for the respondent.

ENTER: This 13th day of December, 2010.


Senior United States District Judge

¹The respondent argues in his motion to dismiss that petitioner already challenged this conviction in the United States District Court for the Eastern District of Virginia, Alexandria Division. In his response, petitioner acknowledges that he already filed a habeas petition about the same state court conviction he attempts to challenge with the instant petition.